



*Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John R. Griffin, Secretary
Joseph P. Gill, Deputy Secretary*

Issue- Legality of the use of spot pots by charter boat captains, recreational and commercial licensees.

An individual licensed with a fishing guide license (FGR or FGN) under 4-701 is only authorized to provide services as a fishing guide. This means to take compensation to take individuals recreationally fishing. It does not convey any commercial fishing privileges or authorization to harvest with commercial fishing gear. Recreational fishing gear is defined in Natural Resources Article 4-704(a) as hook and line, dip net operated by hand, spear gun, or bow and arrow. Gear other than that specified is commercial fishing gear. Therefore, an individual licensed with a fishing guide license (FGR or FGN) may not harvest finfish with any type of commercial gear, including spot pots. In addition, recreational fishermen may not set spot pots.

However, an individual licensed with an Unlimited Tidal Fish License (TFL) or Unlimited Finfish License (FIN) may use commercial fishing gear to harvest finfish. The Natural Resources Police is issuing citations for spot pots that do not meet the definition of a fish pot in COMAR 08.02.05.02. A fish pot is defined as: a single, finfish entrapment net device, without associated wings or leads, consisting of:

- (a) An enclosure of various shapes covered with wire, fabric, or nylon mesh webbing of not less than 1 ½ inch stretched mesh size;
- (b) One or more conical entrance funnels;
- (c) One or more unobstructed escape vents, in the holding chamber, of at least 2 ½ inches in diameter, if circular, or 2 ½ inches stretched mesh size if square.

Fishing gear currently being utilized and referred to as spot pots are generally 24" by 24", consist of stretch mess less than 1 ½ inches and do not include any escape panels or cull rings. Spot pots are not a gear defined in Code of Maryland Regulations, and they do not meet the current definition for a fish pot. This issue is under review by Department counsel. The fact that the issue requires legal review is evidence that the regulation lacks clarity. Therefore, Fisheries Service is further evaluating this issue and looking for recommendations from the Commissions. There remains concern about increased effort to spot, particularly juveniles, and the by-catch impacts of other important fisheries resources (i.e. striped bass, white perch, blue crabs). The spot fishery management plan has specific objectives and strategies to protect juvenile spot. Spot do not mature until ages two and three and lengths of seven to eight inches. The Department recommends further evaluation of spot pots before allowing them to be a legal gear.